

WASHINGTON STATE COURT OF APPEALS DIVISION THREE

CASE SUMMARIES FOR ORAL ARGUMENT

The following summaries are drawn from briefs and lower court judgments. The summaries have not been reviewed for accuracy by the judges and are intended to provide a general idea of facts and issues presented in the cases. The summaries should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

Date of Hearing: Tuesday, September 11, 2018

Location: Spokane, WA – 500 North Cedar

Panel: Robert Lawrence-Berrey, Kevin Korsmo, Rebecca Pennell

9:00 a.m.

1) **No.: 356281**

Case Name: State of Washington v. Russell Paul Kassner

County: Spokane

Case Summary: In 1995, the State charged Russell Kassner with one count of first degree child molestation and one count of second degree rape based on conduct Mr. Kassner allegedly committed between the ages of 10 and 17. Since Mr. Kassner turned 18 during the police investigation, the State charged Mr. Kassner as an adult. In exchange for Mr. Kassner's guilty plea to the lesser offense of child molestation, the State dismissed the second degree rape charge and recommended a special sex offender sentencing alternative (SSOSA). Mr. Kassner received a SSOSA that imposed three months of confinement. However, the SSOSA was later revoked after Mr. Kassner was found to have violated the conditions the SSOSA, and he was ordered to serve the remaining portion of his 51-month sentence in confinement.

In October 2016, Mr. Kassner sought to withdraw his guilty plea pursuant to CrR 7.8, contending the superior court failed to conduct a capacity hearing prior to accepting his guilty plea. The superior court denied the motion, and Mr. Kassner appeals.

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2) **No.: 353940**

Case Name: Western National Assurance Co., v. John Robel, et ux, et al

County: Spokane

Case Summary: Vicki Posa was picking cherries at Robel's Orchard in July 2010 when she fell off a ladder and sustained multiple injuries. Three years later, Ms. Posa initiated a lawsuit against the owners of Robel's Orchard, John and Linda Robel, seeking compensation for her injuries. The Robels had homeowner's insurance through Western National, which appointed an attorney to defend the Robels in the action. After learning that Ms. Posa sustained her injuries during the "pay to pick" hours at the orchard, Western National filed an action seeking a declaratory judgment that the Robels' insurance policy did not provide liability coverage for Ms. Posa based on the policy's exclusion for bodily injury resulting from activities related to the insureds' business. The superior court issued an order granting declaratory judgment in favor of Western National. Ms. Posa appeals.

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3) **No.: 354245**

Case Name: Jerry Jasman v. Grant County, et al

County: Grant

Case Summary: Grant County Coroner Jerry Jasman pleaded guilty to disorderly conduct involving his then-deputy coroner and resigned from office. Although Mr. Jasman's conviction precluded him from holding public office in the future, the newly elected coroner, Craig Morrison, hired Mr. Jasman as his deputy coroner and chief investigator in 2010.

Grant County Prosecuting Attorney D. Angus Lee believed Mr. Jasman lacked the statutory authority to sign death certificates given his prior conviction. Accordingly, Prosecutor Lee brought a quo warranto action, claiming Mr. Jasman was unlawfully exercising public office. Mr. Jasman resigned as deputy coroner, but remained in the position of chief investigator. Coroner Morrison intervened in the action, and aligned with Mr. Jasman as a defendant. Coroner Morrison and Mr. Jasman then moved for the appointment of a special prosecutor to defend them, and the superior court denied the motion. Both parties moved for summary judgment. The court granted summary judgment in favor of Prosecutor Lee and entered an order enjoining Mr. Jasman from signing death certificates. Coroner Morrison and Mr. Jasman appealed, and this court and our Supreme Court both affirmed.

Mr. Jasman separately filed a complaint for declaratory judgment, and alternative petitions for writs of certiorari and/or mandamus, requesting indemnification for the costs of his defense in the quo warranto action. Grant County and Mr. Jasman filed competing summary judgment motions. The superior court granted Grant County's motion and denied Mr. Jasman's. The court also denied Mr. Jasman's request for a continuance to conduct further discovery. Mr. Jasman appeals.

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